

Executive Summary – Enforcement Matter – Case No. 49654
City of Henderson
RN101612679
Docket No. 2014-1718-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Southside Wastewater Treatment Plant, 3492 Farm-to-Market Road 225 South, located approximately 1.5 miles southwest of the intersection of State Highway 79 and Farm-to-Market Road 225, which includes a collection system with a manhole located on Elm Street, Rusk County

Type of Operation:

Wastewater treatment plant including a collection system with a manhole

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 16, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$29,625

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$29,625

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49654
City of Henderson
RN101612679
Docket No. 2014-1718-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 22, 2014 and November 10, 2014

Date(s) of NOE(s): October 21, 2014

Violation Information

1. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010187001, Permit Conditions No. 2.g.].

2. Failed to comply with permitted effluent limits for ammonia nitrogen, *Escherichia coli*, 2-hour peak flow, and 5-day carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010187001, Final Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On August 21, 2014, ceased the unauthorized discharge of wastewater by clearing the collection line of grease and debris, removed and properly disposed of trash and grease from the affected areas, and disinfected the affected areas around the manhole; and
- b. On August 22, 2014, removed and properly disposed of the dead fish, disinfected the affected areas near the stream, and developed and implemented a weekly monitoring and maintenance program for the manhole located on Elm Street.

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010187001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

**Executive Summary – Enforcement Matter – Case No. 49654
City of Henderson
RN101612679
Docket No. 2014-1718-MWD-E**

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Chris Bost, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4575; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Timothy Kelty, City Manager, City of Henderson, 400 West Main Street, Henderson, Texas 75652
The Honorable Patricia Brack, Mayor, City of Henderson, 400 West Main Street, Henderson, Texas 75652
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	27-Oct-2014	Screening	6-Nov-2014	EPA Due	
	PCW	6-Nov-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Henderson		
Reg. Ent. Ref. No.	RN101612679		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	49654	No. of Violations	1
Docket No.	2014-1718-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum		\$0	Maximum
		\$25,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7	\$1,500
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Notes: Enhancement for four months of self-reported effluent violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1		
Estimated Cost of Compliance	\$6,500		

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$7,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,125
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$7,125
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Screening Date 6-Nov-2014

Docket No. 2014-1718-MWD-E

PCW

Respondent City of Henderson

Policy Revision 4 (April 2014)

Case ID No. 49654

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101612679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 6-Nov-2014

Docket No. 2014-1718-MWD-E

PCW

Respondent City of Henderson

Policy Revision 4 (April 2014)

Case ID No. 49654

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101612679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010187001, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on August 22, 2014. Specifically, on August 21, 2014, a blockage in the collection system caused approximately 1,200 - 2,000 gallons of wastewater to discharge from a manhole located on Elm Street. The discharge flowed into an unnamed tributary that flowed directly into Poovey Pond resulting in a fish kill of approximately 40-50 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	x
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One daily event is recommended from the date of discharge occurred (August 21, 2014) to the date of compliance (August 22, 2014).

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent achieved compliance on August 22, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

Economic Benefit Worksheet

Respondent City of Henderson
Case ID No. 49654
Reg. Ent. Reference No. RN101612679
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$6,500	21-Aug-2014	22-Aug-2014	0.00	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to cease the unauthorized discharge of wastewater by clearing the collection line of grease and debris; removed and properly disposed of trash and grease from the affected areas, removed and properly disposed of the dead fish, disinfected the affected areas, and developed and implemented a weekly monitoring and maintenance program for the manhole located on Elm Street. Date required is the date the discharge began and ceased. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,500

TOTAL

\$1



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	27-Oct-2014	Screening	10-Oct-2014	EPA Due	
	PCW	13-Nov-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Henderson		
Reg. Ent. Ref. No.	RN101612679		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	49654	No. of Violations	2
Docket No.	2014-1718-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$18,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,750**

Notes Enhancement for four months of self-reported effluent violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$876**
Estimated Cost of Compliance **\$8,500**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$22,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$22,500**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$22,500**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$22,500**

Screening Date 10-Oct-2014

Docket No. 2014-1718-MWD-E

PCW

Respondent City of Henderson

Policy Revision 4 (April 2014)

Case ID No. 49654

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101612679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an Intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 10-Oct-2014

Docket No. 2014-1718-MWD-E

PCW

Respondent City of Henderson

Policy Revision 4 (April 2014)

Case ID No. 49654

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101612679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010187001, Final Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on November 10, 2014, and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the monitoring period ending August 31, 2013.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$876

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent City of Henderson

Case ID No. 49654

Reg. Ent. Reference No. RN101612679

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$8,500	31-Aug-2013	22-Sep-2015	2.06	\$876	n/a	\$876

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the Initial month of noncompliance. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,500

TOTAL

\$876

Screening Date 10-Oct-2014

Docket No. 2014-1718-MWD-E

PCW

Respondent City of Henderson

Policy Revision 4 (April 2014)

Case ID No. 49654

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101612679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010187001, Final Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on November 10, 2014, and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate five-day carbonaceous biochemical oxygen demand, ammonia nitrogen, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

123 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended for the quarters containing the months of October 2013; March, June, and July 2014.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$13,500

This violation Final Assessed Penalty (adjusted for limits) \$13,500

Economic Benefit Worksheet

Respondent City of Henderson

Case ID No. 49654

Reg. Ent. Reference No. RN101612679

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Respondent: City of Henderson
ID Number(s): TPDES Permit No. WQ0010187001
Docket Number: 2014-1718-MWD-E

EFFLUENT PARAMETER							
	Permit Limit						
	CBOD ₅ Daily Max. Conc. 25 mg/L	NH ₃ -N Daily Avg. Conc. 3 mg/L	NH ₃ -N Daily Max. Conc. 10 mg/L	NH ₃ -N Daily Avg. Loading. 75 lbs/day	Flow 2 Hour Peak 4,200 gpm	<i>E. coli</i> Daily Avg. Conc. 126 cfu/100 ml	<i>E. coli</i> Daily Max. Conc. 394 cfu/100 ml
Month/Year							
August 2013	c	c	c	c	c	606.4	2,419.60
October 2013	c	c	c	c	5,555	c	c
March 2014	27.3	c	c	c	c	c	c
June 2014	c	c	c	c	4,266	c	c
July 2014	c	5.64	20.5	87.19	c	c	c

lbs/day - pounds per day

mg/L - milligrams per liter

NH₃-N - Ammonia Nitrogen

CBOD₅ - Five-Day

Carbonaceous Biochemical

Oxygen Demand

c - compliant

Avg. - average

Conc. - concentration

cfu/100 ml - colony

forming units/100

milliliters

gpm - gallons per minute

E. coli - *Escherichia coli*

Max. - Maximum

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600690739, RN101612679, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600690739, City of Henderson

Classification: SATISFACTORY

Rating: 1.43

Regulated Entity: RN101612679, SOUTHSIDE WASTEWATER TREATMENT PLANT

Classification: SATISFACTORY

Rating: 0.50

Complexity Points: 10

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: Located at 3492 Farm-to-Market Road 225 South, approximately 1.5 miles southwest of the intersection of State Highway 79 and Farm-to-Market Road 225, which includes a collection system with a manhole located on Elm Street, Rusk County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s): **WASTEWATER PERMIT** WQ0010187001

WASTEWATER EPA ID TX0052779

STORMWATER PERMIT TXR05X643

Compliance History Period: September 01, 2009 to August 31, 2014

Rating Year: 2014

Rating Date: 09/01/2014

Date Compliance History Report Prepared: January 14, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 14, 2010 to January 14, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Brister

Phone: (817) 588-5825

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	February 22, 2010	(809381)
Item 2	March 15, 2010	(832556)
Item 3	April 19, 2010	(861313)
Item 4	June 16, 2010	(832557)
Item 5	August 19, 2010	(867476)
Item 6	September 08, 2010	(874489)
Item 7	October 13, 2010	(882070)
Item 8	November 15, 2010	(888539)
Item 9	December 14, 2010	(896884)
Item 10	January 18, 2011	(902834)
Item 11	February 10, 2011	(909679)
Item 12	March 09, 2011	(916898)
Item 13	April 05, 2011	(926738)
Item 14	May 17, 2011	(938614)
Item 15	June 21, 2011	(914438)
Item 16	August 05, 2011	(959882)
Item 17	October 05, 2011	(965923)
Item 18	November 03, 2011	(978130)
Item 19	December 09, 2011	(984901)
Item 20	December 29, 2011	(991189)
Item 21	March 14, 2012	(1004086)
Item 22	April 12, 2012	(1010651)
Item 23	May 10, 2012	(1017025)
Item 24	May 15, 2012	(996861)
Item 25	June 11, 2012	(1024788)
Item 26	July 12, 2012	(1032149)
Item 27	August 14, 2012	(1038575)
Item 28	September 11, 2012	(1047440)
Item 29	November 20, 2012	(1063860)
Item 30	December 18, 2012	(1063861)
Item 31	February 11, 2013	(1080247)
Item 32	April 08, 2013	(1096309)
Item 33	May 09, 2013	(1107253)
Item 34	June 17, 2013	(1110918)
Item 35	July 16, 2013	(1117789)
Item 36	August 22, 2013	(1125577)
Item 37	October 09, 2013	(1135896)
Item 38	December 12, 2013	(1153809)
Item 39	December 13, 2013	(1147756)
Item 40	February 10, 2014	(1161138)
Item 41	March 11, 2014	(1167794)
Item 42	May 08, 2014	(1181120)
Item 43	July 02, 2014	(1188022)
Item 44	August 11, 2014	(1186480)
Item 45	September 03, 2014	(1187267)
Item 46	September 05, 2014	(1206409)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	03/31/2014 (1174920)	CN600690739
	Self Report?	YES	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
2	Date:	06/30/2014 (1199554)	CN600690739
	Self Report?	YES	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	

3	Date: 07/31/2014 (1199555)	CN600690739	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 09/30/2014 (1212819)	CN600690739	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HENDERSON
RN101612679**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1718-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Henderson ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 3492 Farm-to-Market Road 225 South, approximately 1.5 miles southwest of the intersection of State Highway 79 and Farm-to-Market Road 225, which includes a collection system with a manhole located on Elm Street, Rusk County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on August 22, 2014, TCEQ staff documented that a blockage in the collection system caused approximately 1,200 - 2,000 gallons of wastewater to discharge from a manhole located on Elm Street on August 21, 2014. The discharge flowed into an unnamed tributary that flowed directly into Poovey Pond resulting in a fish kill of approximately 40-50 fish.
4. During a record review conducted on November 10, 2014, TCEQ staff documented the following effluent values based on self-reported discharge monitoring reports ("DMRs"):

EFFLUENT PARAMETER							
	Permit Limit						
	CBOD ₅ Daily Max. Conc. 25 mg/L	NH ₃ -N Daily Avg. Conc. 3 mg/L	NH ₃ -N Daily Max. Conc. 10 mg/L	NH ₃ -N Daily Avg. Loading. 75 lbs/day	Flow 2 Hour Peak 4,200 gpm	<i>E. coli</i> Daily Avg. Conc. 126 cfu/100 ml	<i>E. coli</i> Daily Max. Conc. 394 cfu/100 ml
Month/Year							
August 2013	c	c	c	c	c	606.4	2,419.60
October 2013	c	c	c	c	5,555	c	c
March 2014	27.3	c	c	c	c	c	c
June 2014	c	c	c	c	4,266	c	c
July 2014	c	5.64	20.5	87.19	c	c	c

lbs/day - pounds per day

mg/L - milligrams per liter

NH₃-N - Ammonia Nitrogen

CBOD₅ - Five-Day

Carbonaceous Biochemical

Oxygen Demand

c - compliant

Avg. - average

Conc. - concentration

cfu/100 ml - colony

forming units/100

milliliters

gpm - gallons per minute

E. coli - *Escherichia coli*

Max. - Maximum

5. The Respondent received notice of the violations on October 23, 2014.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On August 21, 2014, ceased the unauthorized discharge of wastewater by clearing the collection line of grease and debris, removed and properly disposed of trash and grease from the affected areas, and disinfected the affected areas around the manhole; and
 - b. On August 22, 2014, removed and properly disposed of the dead fish, disinfected the affected areas near the stream, and developed and implemented a weekly monitoring and maintenance program for the manhole located on Elm Street.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010187001, Permit Conditions No. 2.g.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010187001, Final Effluent Limitations and Monitoring Requirements No. 1.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Twenty-Nine Thousand Six Hundred Twenty-Five Dollars (\$29,625) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Twenty-Nine Thousand Six Hundred Twenty-Five Dollar (\$29,625) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Nine Thousand Six Hundred Twenty-Five Dollars (\$29,625) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: the City of Henderson, Docket No. 2014-1718-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010187001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God,

war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/16/16
Date

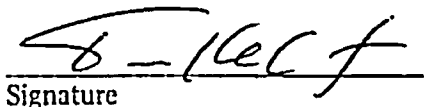
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Henderson. I am authorized to agree to the attached Agreed Order on behalf of the City of Henderson, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Henderson waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

5/4/15
Date

Timothy Kelly City Manager

Name (Printed or typed)
Authorized Representative of
City of Henderson

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.